

FILED  
JAMES BONINI  
CLERK

04 MAY -6 PM 4:41

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO U.S. DISTRICT COURT  
EASTERN DIVISION SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

EARL G. SCHNEIDER,

CASE NO 04 357

Plaintiff,

v.

JUDGE:  
~~JUDGE MARBLEY~~

MRS ASSOCIATES,

MAGISTRATE JUDGE:  
~~MAGISTRATE JUDGE ABEL~~

Defendant.

COMPLAINT FOR DAMAGES

### I. INTRODUCTION

1. This is an action for damages brought by an individual consumer as a result of defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

### II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331. Venue in this District is proper in that the defendant transacts business here and the conduct complained of occurred here.

### III. PARTIES

3. Plaintiff, Earl G. Schneider, Jr., is a natural person residing in Glenford, Ohio.

4. Defendant, MRS Associates, is engaged in the business of collecting debts in this state with its principal place of business located at 6530 West Campus Oval, New Albany, Ohio 43054.
5. The principal business of defendant MRS Associates is the collection of consumer debts using the mail and telephone.
6. Defendant MRS Associates regularly collects or attempts to collect consumer debts due or alleged to be due another.

#### **IV. FACTS**

7. Earl G. Schneider, Jr. entered into an agreement with Household Automotive Finance Corp., to borrow money for purposes of purchasing a used 1998 Mercury Grand Marquis to be used for personal transportation.
8. Household Automotive Finance Corp. later hired MRS Associates to collect an amount allegedly owed it by Mr. Schneider from the consumer loan.
9. Although MRS Associates was notified on or before March 18, 2004 that Mr. Schneider is represented by an attorney with respect to the alleged debt, the collection agency continues to call Mr. Schneider's home more than once per week in an attempt to collect the debt.

#### **V. FIRST CAUSE OF ACTION**

10. Defendant's collection practices are subject to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.*
11. Defendant is prohibited from communicating with a consumer in connection with the collection of a debt, if defendant has knowledge the consumer is represented by

attorney with respect to the debt, and has knowledge or can readily ascertain the attorney's name and address. 15 U.S.C. §1692c(a)(2).

12. Defendant has known plaintiff was represented by an attorney with respect to the alleged consumer debt since as early as March 18, 2004. *See plaintiff's exhibits 1 and 2.*
13. Defendant also had knowledge of the attorney's name and address through telephone conversations and letters.
14. Despite having knowledge that plaintiff is represented by an attorney, defendant continues to call plaintiff in an attempt to collect the alleged debt.
15. As a result, Mr. Schneider is entitled to statutory damages, and reasonable costs and attorneys' fees.

## **VI. SECOND CAUSE OF ACTION**

16. Defendant MRS Associates engages in the business of effecting consumer transactions, and, therefore is a "supplier" under Ohio Rev. Code §1345.01(C).
17. Plaintiff Earl G. Schneider, Jr. is a "consumer" under Ohio Rev. Code §1345.01(D).
18. The transaction between plaintiff and defendant is a "consumer transaction" under R.C. §1345.01(A). *Broadnax v. Greene Credit Service* (5<sup>th</sup> Dist. 1997), 118 Ohio App. 3d 881, PIF#1808; *Gatto v. Frank Nero Auto Lease* (8<sup>th</sup> Dist. 1999), 1999 WL 195664, PIF # 1812.
19. In connection therewith, defendant knowingly committed acts or practices violating the prohibitions of R.C. §1345.02 and/or R.C. §1345.03, including but not limited to acts or practices prohibited by the Ohio Administrative Code and/or acts or practices declared to violate the CSPA by judicial decisions placed on file with the office of Ohio's Attorney General prior to the events in question.

20. These violations of law have injured plaintiff, entitling him to relief available under R.C. §1345.09.
21. Defendant's liability under Chapter 1345 is both cumulative and in addition to any recover to which is entitled under any other cause of action. *Crye v. Smolack, d.b.a. Jerry's Auto. Trans.* (10<sup>th</sup> Dist. 1996), 110 Ohio App.3d 504. *Ries v. B&J Auction House, Inc.* (5<sup>th</sup> Dist. 1989), 1989 WL 23611.

## VII. DEMAND FOR RELIEF

WHEREFORE, plaintiff respectfully requests that judgment be entered against the defendant for the following:

- A. Actual damages; and
- B. Statutory damages pursuant to 15 U.S.C. §1692k(2)A and Ohio Rev. Code §1345.09; and
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. §1692k(3) and O.R.C. §1345.09; and
- D. For such other and further relief as may be just and proper.

Respectfully submitted,

GRAHAM♦McCLELLAND♦  
RANSBOTTOM, CO., L.P.A.

  
\_\_\_\_\_  
Amy E. Gullifer (0074218)  
P.O. Box 340  
Zanesville, Ohio 43702  
Telephone: (740) 454-8585  
Facsimile: (740) 454-0111

**Graham ♦ McClelland ♦ Ransbottom**  
Law Offices



James F. Graham  
Clay P. Graham  
Robert P. Graham  
David A. Graham

Jack J. McClelland

11 North 4th Street  
P.O. Box 340  
Zanesville, Ohio 43702-0340  
740-454-8585

James W. Ransbottom  
Stephen R. McCann  
J. William Merry  
Dean L. Wilson

March 17, 2004

VIA Facsimile (614) 289-5070

MRS Associates  
6530 West Campus Oval  
Suite 100  
New Albany, OH 43054

Attn: Michele Walters

Re: *Earl G. Schneider, Jr.*  
Account No. 944342

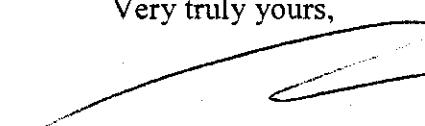
Dear Ms. Walters:

On this date, we contacted you to inquire the nature of the call you made to our client, Earl Schneider without our expressed permission. We requested you provide us with your address, which you refused to give, and you advised his account will be going to "litigation" today and hung up.

This letter will serve as notice to you not to contact our client directly. Any and all questions or information you require is to be requested through this office.

I have previously requested you forward all copies of agreements, notices, account statements and all litigation filed against him, if any, to this office for our review. Please forward that information to this office as soon as possible.

Very truly yours,

  
Gary M. Smith

cc: Earl G. Schneider, Jr.

**Graham ♦ McClelland ♦ Ransbottom Co., L.P.A.**

1-800-621-8585 • FAX 740-454-0111

Roseville Office: 315 Zanesville Road • Roseville, Ohio 43777  
740-697-0290



## TRANSACTION REPORT

MAR-17-2004 WED 03:02 PM

FOR: GRAHAM MCCLELLAND LAW 740 454 0111

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
MAR-17	03:01 PM	916142895070	43"	1	SEND	OK	524	

TOTAL : 43S PAGES: 1

**Graham ◆ McClelland ◆ Ransbottom****Law Offices**

James F. Graham  
 Clay P. Graham  
 Robert P. Graham  
 David A. Graham

Jack J. McClelland  
 11 North 4th Street  
 P.O. Box 340  
 Zanesville, Ohio 43702-0340  
 740-454-8585

James W. Ransbottom  
 Stephen R. McCann  
 J. William Merry  
 Dean L. Wilson

March 17, 2004

VIA Facsimile (614) 289-5070

MRS Associates  
 6530 West Campus Oval  
 Suite 100  
 New Albany, OH 43054

Attn: Michele Walters

Re: *Earl G. Schneider, Jr.*  
 Account No. 944342

Dear Ms. Walters:

On this date, we contacted you to inquire the nature of the call you made to our client,



# Graham ♦ McClelland ♦ Ransbottom

Law Offices

James F. Graham  
Clay P. Graham  
Robert P. Graham  
David A. Graham

Jack J. McClelland

11 North 4th Street  
P.O. Box 340  
Zanesville, Ohio 43702-0340  
740-454-8585

James W. Ransbottom  
Stephen R. McCann  
J. William Merry  
Dean L. Wilson

March 22, 2004

VIA Facsimile (614) 289-5070  
and Certified Mail/Return Receipt

MRS Associates  
6530 West Campus Oval  
Suite 100  
New Albany, OH 43054

Attn: Jason Stang, Manager

Re: *Earl G. Schneider, Jr.*  
Account No. 944342

Dear Mr. Stang:

This letter will confirm our telephone conversation of this date wherein you indicated that neither your client or your office are in possession of copies of agreements, notices and/or account statements in regard to Mr. Snyder's repossession. This letter will also confirm that you hung up the telephone with the comment "you are a complete waste of time" when I attempted to discuss this matter with you.

I then received a voice mail message at 11:26 a.m. indicating that it would be a "complete waste of time" to forward any documents we are requesting since "your client already has the documents" and you demanded to speak to "my boss" immediately.

This letter will again serve as notice to you not to contact our client directly. Whether or not you feel it is a complete waste of time, we again request copies of agreements, notices and/or account statements with regard to this matter. It is impossible to discuss this matter with you unless we have the documents concerning the claims you are asserting.

Very truly yours,

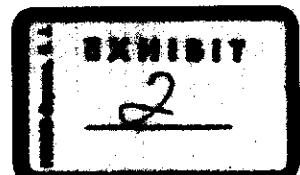
Deborah Watkins  
Paralegal

cc: Earl G. Schneider, Jr.

**Graham ♦ McClelland ♦ Ransbottom Co., L.P.A.**

1-800-621-8585 • FAX 740-454-0111

Roseville Office: 315 Zanesville Road • Roseville, Ohio 43777  
740-697-0290



TRANSACTION REPORT

MAR-22-2004 MON 03:58 PM

FOR: GRAHAM MCCLELLAND LAW 740 454 0111

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
MAR-22	03:58 PM	916142895070	19"	1	SEND	OK	590	

TOTAL : 19S PAGES: 1

**Graham ◆ McClelland ◆ Ransbottom**  
Law Offices



James F. Graham  
Clay P. Graham  
Robert P. Graham  
David A. Graham

Jack J. McClelland  
11 North 4th Street  
P.O. Box 340  
Zanesville, Ohio 43702-0340  
740-454-8585

James W. Ransbottom  
Stephen R. McCann  
J. William Merry  
Dean L. Wilson

March 22, 2004

VIA Facsimile (614) 289-5070  
and Certified Mail/Return Receipt  
MRS Associates  
6530 West Campus Oval  
Suite 100  
New Albany, OH 43054

Attn: Jason Stang, Manager

Re: *Earl G. Schneider, Jr.*  
Account No. 944342

Dear Mr. Stang:

This letter will confirm our telephone conversation of this date wherein you indicated that